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| APPLICATION NO.                                  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 09/845,103                                       | 04/30/2001  | David Perkinson      | 72128                   | 1623             |
| 7590   | 04/21/2005  |                      | EXAMINER                |                  |
| CHRISTOPHER F. REGAN, ESQUIRE                    |             |                      | BLAIR, DOUGLAS B        |                  |
| ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A. |             |                      | ART UNIT                | PAPER NUMBER     |
| P.O. Box 3791                                    |             |                      | 2142                    |                  |
| Orlando, FL 32802-3791                           |             |                      | DATE MAILED: 04/21/2005 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/845,103             | PERKINSON ET AL.    |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Douglas B. Blair       | 2142                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2 and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent Number 5,930,259 to Katsume et al..

3. As to claims 1 and 5, Katsume teaches a packet switch control mechanism and method for controlling the selective coupling of digital communication packets presented to virtual circuit input ports of a packet switch to virtual circuit output ports thereof (col. 10, lines 21-31) comprising: a plurality of packet analyzers, a respective one of which is operative to analyze contents of a packet presented thereto and to provide an output representative of whether or not of said packet has a protocol that conforms with the configuration function of aid respective packet analyzer (col. 10, lines 32-55); and a packet distribution controller coupled to said plurality of packet analyzers and being operative, in response to a respective packet analyzer supplying an output representative that the packet coupled thereto has a protocol that conforms with the configuration function of said respective packet analyzer, to couple said respective packet to a selected virtual circuit output port of said switch, but otherwise not coupling said respective packet of a virtual circuit output port of said switch (col. 10, lines 32-55).

4. As to claims 2 and 6, Katsume teaches a packet switch control mechanism and method wherein said packet distribution controller is operative, in response to any packet analyzer of a prescribed order of said plurality of packet analyzers supplying said output representative that the packet coupled has a protocol that conforms with the configuration function of said any packet analyzer, to cause said respective packet to be coupled to a selected virtual circuit output port of said switch, and to terminate further coupling of said packet to any remaining ones of said prescribed order of said plurality of packet analyzers (col. 10, lines 32-55).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,930,259 to Katsume et al. in view of U.S. Patent Number 6,775,290 to Merchant et al..

7. As claims 3 and 7, Katsume teaches the mechanism and method of claims 1 and 5 however Katsume does not explicitly teach discarding a packet.

Merchant teaches a packet distribution controller operative, in response to no packet analyzer having a configuration function for which there is an associated virtual circuit port of said switch, to cases said packet to be discarded (col. 5, lines 29-53).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Katsume regarding the analysis of packets with the teachings of Merchant regarding the discarding of packets because discarding packets that do not match reduces memory use (Merchant, col. 5, lines 29-53).

8. As to claims 4 and 8, Katsume teaches a method wherein a plurality of packet analyzers comprise a prescribe having configuration functions for there are associated ports of a switch, wherein a packet distribution controller is operative to supply an output and to couple a respective packet to a selected virtual port (col. 10, lines 32-55).

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

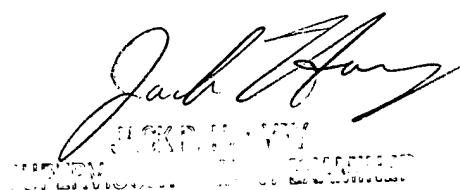
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair  

A rectangular official seal of the United States Patent and Trademark Office. It features a stylized eagle with wings spread wide, perched atop a shield. The words "UNITED STATES PATENT AND TRADEMARK OFFICE" are inscribed around the top edge, and "NOTARY" is at the bottom center.